IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(***Special Original Jurisdiction***)

TUESDAY, THE NINETEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO. 8194 of 2005

Between :

Mannem Laxminath Reddy, s/o late Srinivasareddy,
r/o 2-2-25/A, D.D.Colony, Vidyanagar, Hyderabad-13 and r/o Flat No.16,
R.K.Towers, Beside Jayabharat Hospital, Somasekharapuram, Nellore.

..... PETITIONER

A N D

1. Government of Andhra Pradesh, rep., by its Principal Secretary,

Department of Revenue (Endowments), Secretariat, Hyderabad.
2) Commissioner of Endowments, Boggulakunta, Hyderabad.
3) Deputy Commissioner of Endowments, Gunturu.
4) Assistant Commissioner of Endowments, Nellore.
5) Annam Vivekananda Reddy, s/o Venkata Reddy,
Kapu Street, Nellore.
6) Maggiga Chandramouli Reddy, s/o Dhasaradha Ramireddy,
Bommavari Line, Adhyashamvari Street, Nellore.
7) Tummala Subbareddy, s/o Adinarayanareddy,
Kapu Street, Nellore.
8) A.Chandrasekhara Reddy, s/o Venkata Reddy,
25/1-11-45, IV Cross Street, Nethaji Nagar, Opp:Podalakur Road,

Near Padmavathi Centre, Nellore.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any order or writ more particularly one in the nature of writ of mandamus declaring the order dated 23-9-1996 in Ac.Rc.A1/3489/96 passed by the Asst.Commissioner of Endowments, Nellore as void, abinitio and to direct the Dy.Commissioner of Endowments, Gunturu to decide the question as to the persons claiming to be member of the Founder Family of Sri Venugopala Swamy Temple, Mulapet, Nellore falling under Sec.87(1)(h) of A.P. Charitable and Hindu Religious Endowments Act, Act XXX of 1987 and pass such other order or orders as this Hon'ble Court may deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.N.GURU GOPAL

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court made the following **:**

O R D E R :

This writ petition is filed to declare the order dated 23-9-1996 in AC.RC.No.A1/3489/86 passed by the Assistant Commissioner of Endowments, Nellore, as void, *abinitio* and to direct the Dy.Commissioner of Endowments, Guntur to decide the question as to the persons claiming to be members of the Founder Family of Sri Venugopalaswamy temple, Mulapet, Nellore, falling under section 87 (1) (h) of A.P. Charitable and Hindu Religious Endowments Act, XXX of 1987.

The Petitioner submits that Sri Venugopalaswamy Temple situate at Moolapet of Nellore has been constructedby Sri Kantabathina Papireddy and performed

“Prathista” of Mulvarlu. The properties are endowed to this temple by Sri Vasipalli Venkatasubba Reddy under a will. The said will was executed for administration in favour of Smt.Kantabathina Subbamma, late Subbamma wife of Papireddy executed a Panchayat Khararnama on 02-3-1883 in favour of Sri Bodireddy Rangareddy, Sri Mettu Narasareddy, Sri Anam Rangareddy, Sri Majjiga Raghavareddy and Sri Kalavakuru Venkatreddy, as trustees to administer the temple and its properties. In the Khararnama it was stated that if any vacancy arose, the family members of the above said trustees have to co-opt and they are hereditary trustees. According to the judgment in O.S.No.25 of 1935 on the file of the Court of District Court, the trustees have to be appointed as per Panchayat Khararnama dated 02-3-1883. The Endowments Department filed A.S.No.273 and 274 of 1937 on the file of this Court assailing the judgment in O.S.No.25 of 1935. But AS.Nos.273 and 274 of 1937 ended in compromise and thereafter a scheme was framed on 20-4-1941 and subsequently modified on 24-2-1959. According to the modification of the scheme, the hereditary trusteeship of the said temple was affirmed and Sri A.C.Subbareddy, Sri A.Venkatareddy, Sri Mannem Srinivasulu Reddy, Sri Majjiga Dasaradharamireddy and Sri Tummala Dasaradharamireddy were acted as trustees in the year 1935.

The petitioner submits that according to the order in WP.No.2770 of 1986 dated 15-10-1986, the hereditary trusteeship of Sri Venugopalaswamy Temple is confirmed and the Chairman of the Trust Board has to be elected and among the five trustees by rotation system for a period of three years as in the case of other non-hereditary trust boards appointed by the Department. Since 183, the trustees of Sri

Venugopalaswamy temple, Mulapet, Nellore are being co-opted from the families of originally appointed trustees as per Panchayat Khararnama dated 02-3-1883, executed by Smt.Kantabathina Subbamma wife of Papireddy, who is the founder of the temple. The present five trustees now acting come from the founder nominated original families only, as hereditary trustees by virtue of terms and conditions like Khararnama scheme dated 20-4-1941 and the modification of scheme dated 24-8-1959.

The petitioner submits that the present trustees to the temple made an application to the Assistant Commissioner of Endowments, Nellore to declare them as members of the founder's family. But the Assistant Commissioner of Endowments having conducted enquiry declared Sri Mannam Lakshminath Reddy, Sri Anam Chandrasekhararеddy, Sri Anam Vivekanandareddy, Sri Thummala Subbaredy and Sri Majjiga Chandramoulireddy.

Mr.N.Gurugopal, the learned counsel for the petitioner submits that the Assistant Commissioner has no power to pass the above impugned order in view of amendment to the Endowments Act and incorporating subsection 87 (h), which came into force from 26-8-2002. He further submits that prior to the amendment, there is no provision of law governing to decide the members of the founder's family and there is no statutory law.

While making submissions, the learned counsel for the petitioner relied on a judgment of Division Bench of this Court in PRATHI SUBBAIAH CHETTY AND ORS. V/s. GOVERNMENT OF ANDHRA PRADESH & ORS., wherein the Division

Bench held that appointment of founder trustee in respect of institutions falling under section 6 (1) (b) of Endowments Act, 1987 it is only the Deputy Commissioner who is competent to appoint the members but appointment made by the Assistant Commissioner is not valid.

After hearing the learned counsel for the petitioner as well as the counsel appearing on behalf of the learned Govt.Pleader, when the impugned order is passed in 1996 the petitioner has now approached before this court assailing the order passed in 1996 and he had slept over the matter for about nine years and suddenly he woke up after the judgment of the learned single Judge of this court. The facts of that case are the Assistant Commissioner decided the dispute in favour of respondents 2 and 3 some time in April 2002 i.e., after the amendment Act came into force. In those circumstances, the learned Judge has interfered with the matter. But in the present case, the facts and circumstances are different as the Assistant Commissioner decided the matter about nine years back i.e., prior to amendment of Section 87(h) of the Endowments Act. On careful consideration of the matter, the amendment Act has not given any retrospective effect and therefore, this court cannot interfere into the matter. I see no reason to entertain this writ petition. The writ petition fails and is liable to be dismissed.

In the result, the writ petition is dismissed. No costs.

APRIL 19th, 2005. ----------

I S L. ELIPE DHARMA RAO , J.

To

1) 2 CD copies

2) 1 CC to MR.GURU GOPAL

3) 1 CC to Govt.Pleader for Endowments, High Court Buildings,

High Court of AP Hyderabad.

4) The Principal Secretary to Government, Department of Revenue

(Endowments), Secretariat, Hyderabad.

5) The Commissioner of Endowments, Boggulakunta, Hyderabad.

6) The Deputy Commissioner of Endowments, Guntur.

7) The Assistant Commissioner of Endowments, Nellore.

8) Maggiga Chandramouli Reddy, s/o. Dasaradha Ramiredy,

Bommavariline, Adhyashm vari street, Nellore district.

9) Tummala Subbareddy, s/o. Adinarayanareddy, Kapu street,

Nellore, Nellore district.

10) A.Chandrasekhara Redy, s/o.Venaktareddy, 25/1-11-45, IV-Cross Street, Nethajinagar, Opp. Podalakur Road, Near Padmavathi Center, Nellore, Nellore district.